

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

VICKIE L. ECKERLE,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner of  
Social Security Administration,

Defendant.

Case No. C05-5682 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION AFFIRMING  
COMMISSIONER'S DECISION


Magistrate Judge J. Kelly Arnold recommends that the Court should conclude that Ms. Eckerle was properly denied social security benefits because application of the proper legal standard and substantial evidence support the Administrative Law Judge's (ALJ) finding Plaintiff is not disabled. Plaintiff objects to the Report and Recommendation contending (1) the ALJ failed to properly assess the medical opinion evidence, (2) the ALJ failed to properly consider claimant's testimony, (3) the ALJ failed to properly consider testimony of lay witnesses, and (4) the ALJ failed to properly assess the vocational evidence.<sup>9\*</sup> After carefully considering Plaintiff's arguments against the analysis and authorities presented by the Magistrate Judge, the Court concludes that the Magistrate Judge did not err in the assessment of medical evidence. Neither is the Court convinced

1 that the ALJ failed to properly assess claimant's subjective symptom testimony or that of lay  
2 witnesses. It is clear from the record that the ALJ considered both the testimony of Ms Eckerle and  
3 the lay witnesses when considering the ultimate question of disability and weighed this evidence in  
4 conjunction with review of the medical evidence. Finally, the Court rejects Plaintiff's contentions  
5 that the ALJ failed to properly assess the vocational evidence. The ALJ's findings are supported by  
6 substantial evidence.

7 The Court, having reviewed Plaintiff's complaint,, the Report and Recommendation of  
8 Magistrate Judge J. Kelly Arnold, Objections thereto, and the remaining record, does hereby find and  
9 ORDER:

- 10 (1) The Court adopts the Report and Recommendation;  
11 (2) The administrative decision is **AFFIRMED**; and  
12 (3) The Clerk is directed to send copies of this Order to Plaintiff's counsel, Defendant's  
13 counsel and to the Hon. J. Kelly Arnold..  
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15 DATED this 18<sup>th</sup> day of September, 2006.

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19 FRANKLIN D. BURGESS  
20 UNITED STATES DISTRICT JUDGE  
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